

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ESSENCE FRANCIS,

Plaintiff,

v.

CHERI FRENCH, *et al.*,

Defendants.

Case No. 2:23-cv-2658

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Chelsey M. Vascura

ORDER

On April 5, 2024, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that this Court dismiss this action without prejudice under Rule 4(m) of the Federal Rules of Civil Procedure for failure to timely effect service of process. (ECF No. 9.) The Court previously dismissed all Defendants except for Defendant The Laurels of Athens. (ECF Nos. 4, 7.) In March 2024, after 90 days passed without Plaintiff filing evidence of service of process over The Laurels of Athens, the Court ordered Plaintiff to show cause within 14 days why the Court should not dismiss this action without prejudice for failure to effect service under Rule 4(m). (ECF No. 8.) When Plaintiff did not respond by April 5, 2024, or effect service on the remaining Defendant, the Magistrate Judge recommended that this Court dismiss the action without prejudice. (ECF No. 9.) Plaintiff objects to the R&R, and although her Objection is untimely by a few days, the Court considers the merits of her Objection. (ECF No. 10.)

A litigant who is the subject of an adverse report and recommendation from a magistrate judge is entitled to *de novo* review of those portions of the report to which proper objections are made. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court “may

accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Plaintiff raises a general objection to the R&R but fails to point to which of the Magistrate Judge’s specific findings she objects to. Plaintiff argues that she has “stated more than one cause of action for each person” and that her “liberty interests/civil rights have been violated.” (ECF No. 10, PageID 77.) She then asks the Court to enter default judgment on the remaining Defendant, who has “not responded within the time that they were supposed to.” (*Id.*)

Normally, a plaintiff waives any challenge to the district court’s conclusions if their objections do not specifically address the magistrate judge’s reasoning. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (explaining that the parties have “the duty to pinpoint those portions of the magistrate’s report that the district court must specifically consider”) (internal citation omitted).

Plaintiff’s Objection does not address the Magistrate Judge’s finding that Plaintiff failed to effectuate service upon The Laurels of Athens under Rule 4(m). Rule 4(m) states that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Plaintiff filed her Complaint in August 2023. (ECF No. 1.) Despite the Court ordering Plaintiff to complete service within 14 days in March 2024 (ECF No. 8), as of the date of this Order Plaintiff has not effected service upon The Laurels of Athens. Plaintiff’s Objection thus identified no error in the R&R.

Accordingly, Plaintiff’s Objection is **OVERRULED**. (ECF No. 10.) The Report and Recommendation is **ADOPTED** and **AFFIRMED**. (ECF No. 9.) The action is **DISMISSED**

WITHOUT PREJUDICE under Rule 4(m) for failure to timely effect service of process. The Clerk is **DIRECTED** to **ENTER JUDGMENT** and close this case.

IT IS SO ORDERED.

6/6/2024
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE